

[ORAL ARGUMENT NOT YET SCHEDULED]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF GEORGIA and BRAD RAFFENSPERGER,
Georgia Secretary of State, in his official capacity,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant-Appellant.

No. 23-5083

**UNOPPOSED MOTION FOR THIRTY-DAY EXTENSION OF TIME
IN WHICH TO FILE OPENING BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and D.C. Circuit Rule 28(e), defendant-appellant United States Department of Justice respectfully moves for a thirty-day extension of time, to and including September 1, 2023, in which to file its opening brief on appeal. This motion is unopposed.

1. Plaintiffs-appellees State of Georgia *et al.* brought suit under the Freedom of Information Act (FOIA) seeking to compel the U.S. Department of Justice to produce certain records, including records reflecting the Department's litigation communications with private co-counsel related to other cases currently pending in the Northern District of Georgia. In response,

the federal government produced numerous documents, but withheld others under FOIA Exemption 5. As to these withholdings, on cross-motions for summary judgment, the district court ruled in plaintiffs' favor and ordered disclosure of the documents. The federal government then filed a timely notice of appeal to this Court.

2. Under this Court's order of June 23, 2023, the federal government's opening brief is currently due by August 2, 2023. We respectfully request that this deadline be extended by thirty days, to and including September 1, 2023.

3. The requested thirty-day extension is necessary to ensure adequate time for counsel to consult within the Department of Justice and to prepare and file its opening brief.

The attorney with principal responsibility for representing the federal government in this appeal is Jeffrey E. Sandberg of the U.S. Department of Justice, Civil Division, Appellate Staff. Mr. Sandberg has been occupied with other appellate litigation, including: *USA Sales, Inc. v. Office of United States Trustee*, No. 21-55643 (9th Cir.) (oral argument held June 7, 2023); *In re Teter*, No. 22-3778 (6th Cir.) (oral argument held June 13, 2023); *Office of the United States Trustee v. John Q. Hammons Fall 2006, LLC*, No. 22-1238 (S. Ct.) (petition for writ of certiorari filed June 23, 2023); *American Reliable Insurance Co. et al. v. United States*, Nos. 22-6014 & 23-5439 (6th Cir.) (response brief on cross

appeals due by July 24, 2023, as extended); and *United States v. State of Missouri*, No. 23-1457 (8th Cir.) (response brief due by August 2, 2023, as extended).

In addition, Mr. Sandberg was out of the office on previously scheduled annual leave between June 23 and June 30, 2023.

The attorney with supervisory responsibility for this appeal is Mark B. Stern of the U.S. Department of Justice, Civil Division, Appellate Staff. Among other matters, Mr. Stern also has supervisory responsibility for *Seago v. Kijakazi*, No. 23-40001 (5th Cir.) (response brief filed June 15, 2023); *Lusk v. Norton*, No. 23-6059 (4th Cir.) (response brief filed June 26, 2023); *State of New Jersey v. Su*, No. 21-5016 (D.C. Cir.) (response brief due by July 14, 2023, as extended); *American Reliable Ins. Co. et al. v. United States*, *supra*; *Sweet v. Cardona*, No. 23-15049 (9th Cir.) (response brief due by August 2, 2023, as extended); *Evans v. United States*, No. 23-1151 (7th Cir.) (response brief due by August 14, 2023, as extended); and *State of Nebraska v. U.S. Secretary of Labor*, No. 23-15179 (9th Cir.) (response brief due by August 21, 2023, as extended).

4. We have consulted with counsel for plaintiffs, who have authorized us to state that plaintiffs do not oppose this request.

CONCLUSION

For the foregoing reasons, defendant-appellant's unopposed motion for a thirty-day extension of time, to and including September 1, 2023, in which to file its opening brief should be granted.

Respectfully submitted,

MARK B. STERN

/s/ Jeffrey E. Sandberg

JEFFREY E. SANDBERG

Attorneys, Civil Division, Appellate Staff

U.S. Department of Justice

950 Pennsylvania Ave. NW, Rm. 7214

Washington, DC 20530

Phone: (202) 532-4453

Counsel for Defendant-Appellant

United States Department of Justice

July 11, 2023

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because it contains 566 words, according to the count of Microsoft Word. The motion complies with Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Calisto MT, a proportionally spaced typeface.

/s/ Jeffrey E. Sandberg
Jeffrey E. Sandberg
Counsel for Defendant-Appellant
United States Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2023, I electronically filed the foregoing motion with the Clerk of Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. The participants in this case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Jeffrey E. Sandberg
Jeffrey E. Sandberg
Counsel for Defendant-Appellant
United States Department of Justice